Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review -	)	
Streamlined Contributor Reporting	)	
Requirements Associated with	)	
Administration of Telecommunications	)	CC Docket No. 98-171
Relay Service, North American Numbering	)	
Plan, Local Number Portability, and	)	
Universal Service Support Mechanisms.	)	
	)	
Telecommunications Services for	)	
Individuals with Hearing and Speech	)	
Disabilities, and the Americans with	)	CC Docket No. 90-571
Disabilities Act of 1990.	)	
	)	
Administration of the North American	)	
Number Plan and North American	)	CC Docket No. 92-237
Numbering Plan Cost Recovery	)	NSD File No. L-00-72
Contribution Factor and Fund Size.	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

REPLY COMMENTS OF THE WEST VIRGINIA CONSUMER ADVOCATE ON UNIVERSAL SERVICE CONTRIBUTION MECHANISMS AND INITIAL COMMENTS ON STAFF STUDY ON CONTRIBUTION MECHANISMS

Executive Summary

The Consumer Advocate Division of the Public Service Commission of West Virginia ("West Virginia Consumer Advocate") hereby submits these comments replying to comments filed by other parties on alternative contribution mechanisms for the federal universal service fund ("USF"). These comments also relate to the Federal Communications Commission ("Commission") Staff study of alternative methodologies for calculating contributions to the USF ("Staff Study"). [1]

Because it is obvious that there is no consensus, or even a majority opinion, among the various commenting parties in this docket, the Commission should consider a compromise which would bridge the gap among the parties to the extent possible. One potential compromise which would be minimally disruptive, would broaden the base of contributions, and would spread responsibility for USF contributions equitably among various industry segments is a 50/50 hybrid based on interstate revenues and end-user connections.

Under the 50/50 hybrid, half of USF funding would be obtained by assessments based on interstate revenues, and half by an assessment on end user connections to the public switched network. By 2007, use of the 50/50 hybrid would result in interexchange carriers funding 32% of USF requirements, local exchange carriers funding 39%, and wireless carriers funding 29%. This is very close to the share of total telecommunications revenues generated by each of these industry sectors. Furthermore,

[1] These comments are combined pursuant to an order of the Deputy Chief of the Telecommunications Access Policy Division (DA 03-1009; rel. March 27, 2003) which allowed parties to file a single document in reply to comments filed pursuant to the Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) ("Second Further Notice") and in response to Public Notice, FCC 03-31 (rel. February 26, 2003) seeking comment on the Staff Study.

adoption of the 50/50 hybrid would have positive impacts on average-usage residential customers, and would ameliorate impacts on low-usage customers which result from pure connection-based proposals.

I. Introduction

The West Virginia Consumer Advocate is required by rule and statute to represent the interests of West Virginia customers in proceedings affecting utility rates. West Virginia Code §24-1-1(f)(2). Resolution by this Commission of the issues relating to the universal service contribution methodology will have a profound impact on telecommunications rates and services in West Virginia. Accordingly, the West Virginia Consumer Advocate has an interest in this proceeding.

In the Second Further Notice of Proposed Rulemaking in these dockets, the Commission asked for comment on alternative contribution mechanisms to fund the USF. The Commission also asked for specific comment on two connection-based proposals and a number-based proposal. The comments filed by the parties show clearly that there is no consensus or majority opinion, among or even within different industry sectors concerning any proposal. Every proposal made has proponents and opponents. Not surprisingly, different industry sectors typically embrace proposals which reduce their particular contribution responsibility, and oppose plans which would increase their responsibility. In such a situation, the Commission should either stick with the *status quo*, or fashion a compromise which includes elements of other proposals and spread contribution responsibility widely. From review of the various proposals, one possible compromise would be the use of a 50/50 hybrid proposal, which would combine the current system based on interstate revenues with the so-called "COSUS" connection proposal.[2]

II. The 50/50 Hybrid Proposal

The current contribution system is based on the interstate revenues of each carrier and has previously been upheld by the Fifth Circuit.[3] Numerous parties have criticized the current system, stating that interstate revenues are shrinking and are inadequate to support the growing needs of the USF. Others hold that use of interstate revenues inequitably burdens providers whose revenues come almost exclusively from interstate services, and that interstate revenues cannot be adequately separated from service bundles.

According to the Staff study, the current interstate revenue assessment system will result in the following contributions by industry and customer segment through 2007:

Industry Segment Share using Interstate Revenues

	2002	2003	2004	2005	2006	2007
IXCs	59%	51%	48%	45%	43%	41%
LECs	26%	27%	28%	29%	30%	32%
CMRS	15%	22%	24%	25%	26%	27%
% of fund met from residential assessment	39%	41%	42%	42%	42%	42%

One of the original connections-based alternatives was proposed by the Coalition for Sustainable Universal Service ("COSUS"). Under the COSUS proposal each residential and small business end-user connection would be initially assessed $1 per month. The remainder of the USF funding requirement would come from tiered assessments on multi-line business and high-capacity connections. The COSUS proposal

[2] This connection proposal is labeled as "Proposal 1" in the Staff Study.

was subject to criticism for the dramatic change in responsibilities of different industry segments, and because it appeared to exempt providers of interstate long distance service that did not provide end-use connections to the network. This omission apparently ran afoul of the requirements of Section 254(d) of the Act which mandates that "every telecommunications carrier that provides interstate telecommunications services shall contribute" to universal service.[4] In order to address this deficiency, the COSUS proposal included in the Staff Study as Proposal 1 was amended to provide for a 1% alternative minimum assessment for all interstate carriers that did not otherwise contribute based on end-user connections.

According to the Staff study, the COSUS end-user connection-based assessment system will result in the following contributions by industry and customer segment through 2007:

Industry Segment Share using End User Connections

	2002*	**2003***	**2004**	**2005**	**2006**	**2007**
IXCs	59%	51%	23%	22%	22%	22%
LECs	26%	27%	49%	47%	46%	45%
CMRS	15%	22%	28%	30%	31%	31%
% of fund met from residential assessment	39%	41%	43%	43%	43%	42%

*Contributions under current interstate revenues-based system.

One compromise that could potentially answer criticisms of each individual contribution methodology is a hybrid proposal using both the current interstate revenue-based system along with the COSUS connection-based system. Under this proposal, 50% of the demand for total universal service support would be met with an assessment on interstate revenues – the same method currently used - and 50% would be met with an

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[3] Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393, 426-430 (5th Cir. 1999).

assessment on end-user connections. The main advantages of this system is that it would address the Section 254(d) problem presented by a pure connections system, and would spread USF responsibility more equitably among industry segments. The 50/50 hybrid proposal would also eliminate the necessity for the 1% alternative minimum assessment included in connection-based Proposal 1. The main disadvantage of the 50/50 hybrid proposal is that it would be more administratively complex, for both USAC and carriers, than implementing a system based on a single contribution criterion. However, it is not conceptually different than state assessment systems that are based partially on investment and partially on revenues.

Under the 50/50 hybrid method using both connections and interstate revenues, the projected USF demand would first be divided in half. Assuming a $6 billion annual fund, $3 billion would be recovered using interstate revenues and $3 billion would be recovered using connections. Currently, this would result in a 4.6% assessment rate on revenues (half of the current 9.1% assessment rate) and a $0.50 per basic connection charge (half of an assumed current connection rate of $1.00). The 50/50 hybrid proposal will result in the following contributions by industry and customer segment through 2007:

Industry Segment Share using 50/50 Hybrid

	2002*	**2003***	**2004**	**2005**	**2006**	**2007**
IXCs	59%	51%	36%	34%	33%	32%
LECs	26%	27%	39%	38%	38%	39%
CMRS	15%	22%	26%	28%	29%	29%
% of fund met from residential assessment	39%	41%	43%	43%	43%	42%

[4] 47 USC 254(d).

*Contributions under current interstate revenues-based system.

In the table above, the contribution shares for the years 2002 and 2003 are the same as under current rules using an interstate revenue-based system. The estimates for the years 2004 – 2007 are 50/50 averages of the contribution percentages set forth for the interstate revenue system and the COSUS connection-based system.

Interestingly, the relative contribution responsibility of different industry segments under the 50/50 hybrid proposal are very close to the relative shares of total telecommunications revenues for each industry segment. As reported in the most recent FCC report on Telecommunications Industry Revenues, Local Service accounted for 37% of total end-user revenues, Toll Service accounted for 34%, and Wireless Service accounted for 29%.[5] Under the 50/50 hybrid proposal, the relative responsibility of each industry segment for USF responsibility will change as revenues and end-user connections change over time.

III. The Impact of the 50/50 Method on Customers

Use of the 50/50 hybrid method should minimize wide swings in customer responsibility, compared to the current system. Assuming an **average** monthly residential customer with a $30 local phone bill including a $6 subscriber line charge, a $30 interstate long distance bill and a $30 wireless bill, USF assessments under the current rules and under the 50/50 hybrid proposal are shown below:

Average Usage

Service	Monthly Bill	Current System USF @9.1% Interstate Revs.	50/50 Hybrid System Based 50% Interstate Revs	Based 50% Connections	Total 50/50	Difference (Current-50/50)
Local	$30.00	$0.55[6]	$0.27	$0.50	$0.77	$0.23
Long Dist.	$30.00	$2.73	$1.37	$0.00	$1.37	-$1.37
Wireless	$30.00	$0.78[7]	$0.39	$0.50	$0.89	$0.11
TOTAL	$90.00	$4.05	$2.03	$1.00	$3.03	-$1.03

Assuming a customer with **low** long distance usage and no wireless phone, the impact would be as follows:

Low Long Distance Usage/No Wireless

		Current System	50/50 Hybrid System			
Service	Monthly Bill	USF @9.1% Interstate Revs.	Based 50% Interstate Revs	Based 50% Connections	Total 50/50	Difference (Current-50/50)
Local	$30.00	$0.55	$0.27	$0.50	$0.77	$0.23
Long Dist.	$4.00	$0.36	$0.18	$0.00	$0.18	-$0.18
TOTAL	$34.00	$0.91	$0.46	$0.50	$0.96	$0.05

Assuming a customer with **high** long distance usage and high wireless usage, the impact would be as follows:

High Long Distance Usage/High Wireless Usage

		Current System	50/50 Hybrid System			
Service	Monthly Bill	USF @9.1% Interstate Revs.	Based 50% Interstate Revs	Based 50% Connections	Total 50/50	Difference (Current-50/50)
Local	$30.00	$0.55	$0.27	$0.50	$0.77	$0.23

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5 *Telecommunications Industry Revenues 2001*, FCC Wireline Competition Bureau, Industry Analysis & Technology Division (March 2003), Table 1.

6 These examples assume that the only part of the local service bill which is considered interstate revenue is the federal subscriber line charge (SLC). For purposes of these examples, it has been assumed that the SLC is at the current $6.00 per month cap. Numerous states have SLCs below $6.00.

7 The assessment on wireless carriers is based on the assumption that the carrier is using the 28.5% safe harbor.

Long Dist.	$60.00	$5.46	$2.73	$0.00	$2.73	-$2.73
Wireless	$60.00	$1.56	$0.78	$0.50	$1.28	-$0.28
TOTAL	$150.00	$7.56	$3.78	$1.00	$4.78	-$2.78

Assuming a customer with **high** local usage (including intrastate toll) and low long distance usage, the impact would be as follows:

High Local Usage/Low Long Distance

		Current System	50/50 Hybrid System			
Service	Monthly Bill	USF @9.1% Interstate Revs.	Based 50% Interstate Revs	Based 50% Connections	Total 50/50	Difference (Current-50/50)
Local	$60.00	$0.55	$0.27	$0.50	$0.77	$0.23
Long Dist.	$4.00	$0.36	$0.18	$0.00	$0.18	-$0.18
Wireless	$30.00	$0.78	$0.39	$0.50	$0.89	$0.11
TOTAL	$94.00	$1.69	$0.84	$1.00	$1.84	$0.16

IV. Conclusion

The pros and cons of the 50/50 Method would be the same as for each of the individual proposals concerning interstate revenues and connections. However, the use of both methods could offset negative aspects of one or the other of the methods used individually. Nevertheless, the issue of whether to expand the interstate revenue base would be transcendent. The contribution from interstate revenue side could be increased by raising or eliminating the safe harbors, and including all broadband services. As previously mentioned, use of the 50/50 Method would address the main criticism of the connection proposal, namely, that it relieves interexchange carriers of most USF responsibility, and has disproportionate impacts on low-usage customers. Finally, the results of the 50/50 method, as far as industry responsibility, are equitable and very close to the results of using a total revenue contribution base.

Respectfully submitted,

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